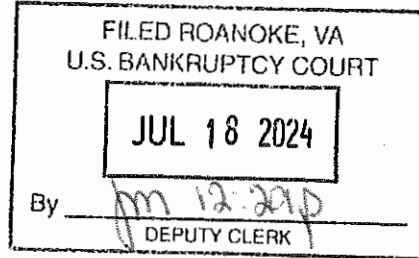


UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF VIRGINIA

JOHN WILLIAMS
2705 FRONTAGE ROAD NW
ROOM # 315
ROANOKE, VA. 24017



RE: John Williams

) **Case Number: 24-70347**
) **DEBTOR'S MOTION FOR**
) **ORDER TO SHOW CAUSE**
) **AS TO WHY THE LOWER**
) **COURT VIOLATED**
) **DEBTOR'S AUTOMATIC STAY**

I RESPECTFULLY REQUEST THIS COURT ISSUES AN ORDER TO SHOW CAUSE AS TO WHY THE ROANOKE CITY GENERAL DISTRICT COURT, STATE OF VIRGINIA, VIOLATED THE CONSTITUTIONAL RIGHTS AND AUTOMATIC STAY STATUS OF DEBTOR JOHN WILLIAMS, DENYING HIM DUE PROCESS OF LAW.

THE AUTOMATIC STAY THAT THIS SPECIFIC CHAPTER 13 PROVIDED THE DEBTOR WAS COMPLETELY IGNORED BY JUDGE THOMAS W. ROE. JR. OF THE ROANOKE CITY GENERAL DISTRICT COURT, STATE OF VIRGINIA, AND THE ATTORNEY FOR THE PLAINTIFF IN THE DEBTOR'S EVICTION CASE, BRETT C. HERBERT, Esq. AS THEY BOTH PROCEEDED WITH THE NON-JURY-TRIAL FOR EVICTION AGAINST HIM AND ENTERED A JUDGMENT FOR EVICTION AND A WRIT OF POSSESSION EVEN THOUGH THE HEARING WAS NULLIFIED BY THE DEBTOR'S AUTOMATIC STAY (PLEASE SEE EXHIBIT A.) THEREFORE, THEY BOTH DENIED THE DEBTOR DUE PROCESS OF LAW AND FRANKLY, DISRESPECTED THE AUTHORITY AND JURISDICTION OF THIS COURT AS WELL AS OF THE HONORABLE JUDGE PAUL M. BLACK.

THE DEBTOR, JOHN WILLIAMS, FILED A CHAPTER 13 ON MAY 13TH, 2024, AND FILED A COPY OF THE "NOTICE OF BANKRUPTCY CASE FILING" CERTIFICATE IN THE LOWER COURT, ROANOKE CITY GENERAL DISTRICT, THE SAME DAY. THE DEBTOR THEN APPEARED FOR THE NON-JURY-TRIAL FOR EVICTION THE FOLLOWING DAY, MAY 14, 2024, TO ENSURE HE WOULD NOT BE DENIED DUE PROCESS OF LAW SIMPLY BECAUSE HE WAS NOT PRESENT AT THE HEARING EVEN THOUGH, WITH THE AUTOMATIC IN PLACE, HE DIDN'T NEED TO APPEAR. THE COURT DENIED HIM DUE PROCESS OF LAW, REGARDLESS.

THE DEBTOR THEN FILED A MOTION TO VACATE THE JUDGMENT FOR EVICTION AND HAD A HEARING ON JUNE 21ST, 2024 BUT JUDGE THOMAS W. ROE. JR., IGNORING ON THE MOTION, DISMISSED IT. PLEASE SEE EXHIBIT B.

THE DEFENDANT RESPECTFULLY REQUEST THAT THE HONORABLE JUDGE PAUL M. BLACK GIVE JUDGE THOMAS W. ROE. JR. A CALL TO DETERMINE HOW HE THOUGHT THAT THE DEFENDANT'S AUTOMATIC STAY ON MAY 14TH, 2024, HAD NO MERIT IN HIS COURT ROOM REGARDING AN EVICTION COMPLAINT FOR PUNITIVE DAMAGES AS WELL AS POSSESSION OF REAL PROPERTY. HE NOT ONLY DISREGARDED THE AUTHORITY OF THE HONORABLE JUDGE PAUL M. BLACK BUT HE ALSO DISRESPECTED THE AUTHORITY OF THE UNITED STATES FEDERAL BANKRUPTCY COURT.

IT IS SAID THAT AMERICA IS A NATION OF LAWS. THAT IS TRUE. BUT ONLY IF WE ALL ADHERE TO THEM. THE DEFENDANT BELIEVES THAT JUDGE THOMAS M. ROE JR. AND ATTORNEY BRETT C. HERBERT, Esq., DENIED HIM DUE PROCESS OF LAW.

I declare under penalty of perjury under the laws of the UNITED STATES BANKRUPTCY COURT the foregoing is true and correct.

Dated: 07-17-2024

[Signature]
JOHN WILLIAMS

Debtor in Pro Per

**Roanoke City General District Court
State Of Virginia**

1 JOHN WILLIAMS
2 2705 FRONTAGE ROAD NW
3 ROOM # 315
4 ROANOKE, VA. 24017
5
6
7
8
9

10 EXTENDED STAY AMERICA SELECT SUITES

11 Plaintiff(s)

12 vs.

13 JOHN WILLIAMS (PRO SE)

14 Defendant(s)
15

Case No. GV24002234

Department No. T.B.D.

**DEFENDANT'S EX-PARTE MOTION
FOR A HEARING TO SET ASIDE AND
VACATE ORDER FOR EVICTION**

16 COMES NOW defendant, JOHN WILLIAMS herein, to respectfully submit this
17 MOTION FOR EX-PARTE HEARING TO SET ASIDE VACATE FINAL JUDGMENT FOR
18 EVICTION based on the following:
19

20 The Defendant, JOHN WILLIAMS, had an AUTOMATIC STAY (SEE EXHIBIT "A")
21 in place that should have "STAYED" the hearing for eviction (03-14-2024) until the Plaintiff
22 petition the UNITED STATES BANKRUPTCY COURT, WESTERN DISTRICT OF
23 VIRGINIA for a RELIEF FROM said STAY. And if the Plaintiff's MOTION FOR RELIEF
FROM STAY is GRANTED, then the hearing for eviction could proceed.

24 The Defendant, JOHN WILLIAMS, respectfully requests that Judge Thomas Roe
25 reviews in depth, length, and detail, 11 US Code § 362 - Automatic stay and all of its
26 components with regard to the protection provided to tenants going through an eviction.
27 Especially where money is also being demanded.

28 11 US Code § 362 - Automatic Stay, may be evoked twice within a fiscal year for tenants
seeking protection for the creditor/landlord.

[Summary of pleading] - 1

EXHIBIT "B" Pg. 1

Also, there was a question during the hearing on 05-14-2024 as to whether or not the Plaintiff was listed as a creditor in the Chapter 13 Bankruptcy Petition. Well, of course they were. Please see EXHIBIT "A". That was the entire reason the Defendant filed the Bankruptcy Petition. To get protection from his creditor so that he would not have to join the Homeless Community of Roanoke City/America. After all, there is homeless epidemic in this Country. Anyone in the courtroom during that hearing could have seen that by looking at the Defendants Bankruptcy Petition in P.A.C.E.R. The Defendant assumed that the Judge and the Plaintiff's Attorney knew how to use P.A.C.E.R. and would do so before entering a judgment.

It is said often that "We Are A Nation Of Laws." That very is true. But only if everyone follows them.

According to the America Bar Association:

The automatic stay (or the "stay") is one of the most important protections and powerful tools available to a debtor in bankruptcy. It is provided for in section 362 of the Bankruptcy Code. Triggered immediately on filing of the bankruptcy petition, it automatically stops substantially all acts and proceedings against the debtor and its property. It is a nationwide, possibly even worldwide, injunction barring almost all actions against the debtor and its property, including the exercise of remedies concerning collateral, enforcement of pre-petition judgments, litigation, collection efforts, and acts to create, perfect, and enforce liens granted before the date the bankruptcy petition was filed. The automatic stay only applies to pre-petition events and does not bar suit against the debtor based on a cause of action arising post-petition.

The automatic stay has a broad scope, applying to all creditors, whether secured or unsecured, and to all of the debtor's property, wherever located. It forbids creditors from pursuing both formal and informal actions and remedies against the debtor and its property. It also covers remedies that could be exercised outside of the US. However, consensual negotiations with the debtor are permitted.

11 US Code § 362 - Automatic stay:

(22)subject to subsection (l), under subsection (a)(3), of the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential property in which the debtor resides as a tenant under a lease or rental agreement and with respect to which the lessor has obtained before the date of the filing of the bankruptcy petition, a judgment for possession of such property against the debtor;

(23)subject to subsection (m), under subsection (a)(3), of an eviction action that seeks possession of the residential property in which the debtor resides as a tenant under a lease or rental agreement based on endangerment of such property or the illegal use of controlled substances on such property, but only if the lessor files with the court, and serves upon the debtor, a certification under penalty of perjury that such an eviction action has been filed, or that the debtor, during the 30-day period preceding the date of the filing of the certification, has endangered property or illegally used or allowed to be used a controlled substance on the property;

Again, the Defendant, John Williams, very respectfully requests that Judge Thomas Roe closely examines 11 US Code § 362 - Automatic stay and how it protects tenants going through an eviction.

The Defendant prays that this court takes his plea into serious consideration. The Defendant also respectfully requests that his Constitutional Rights are not ignored/violated and that he is not denied due process of law simply because he is a 68 year old African American Male (that has given the best years of his life for this Country and has never ask for a penny in return) and that cannot afford an attorney. Please.

DATED: June 14th, 2024

Respectfully Submitted by:

John Williams

EXHIBIT "B" Pg. 2

CERTIFICATE OF SERVICE

I, John Williams, do hereby certify that we have served a copy of my "DEFENDANT'S MOTION FOR AN EX-PARTE HEARING TO SET ASIDE AND VACATE ORDER FOR EVICTION" on the party listed below by depositing the same in the United States Mail, First class with postage prepaid on June 14th, 2024.

EXTENDED STAY AMERICA SELECT SUITES-ROANOKE-AIRPORT
c/o SHAWN M. SWEENEY, ESQ.
5425 Discovery Park Blvd.
Suite 200
Williamsburg, VA 23188

Respectfully submitted on June 14th, 2024

JOHN WILLIAMS (PRO SE)

EXHIBIT "B" Pg. 3

HEARING DATE AND TIME

HEARING DATE AND TIME

STANDARD OF CARE AND TIME

May 3, 2024 at 9:00 am

1

Don't

*cbar/a.c/

150

57-14-29

2000

0 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 1012 1013 1014 1015 1016 1017 1018 1019 1020 1021 1022 1023 1024 1025 1026 1027 1028 1029 1030 1031 1032 1033 1034 1035 1036 1037 1038 1039 1040

$\frac{1}{\sqrt{2}} \left(\begin{array}{c} 1 \\ 0 \\ 0 \end{array} \right)$

redemption tender

presented; continued to:

HEARING DATE AND TIME

~~Defendant must pay:~~

\$1000

AGENT OWED
into the court to be held in

5-26-24

DATE

and any tests coming due prior to the next hearing date must

also be paid into the court.

JUDGE'S INITIALS WJC

MONEY JUDGMENT PAID OR

**SATISFIED PURSUANT TO
ATTACHED NOTICE OF**

SATISFACTION

DATE

CLERK

11/10/50

44-4982-109

411124

REQUEST FOR WRIT OF EVICTION IN UNLAWFUL DETAINER PROCEEDINGS
Commonwealth of Virginia Va. Code § 8.01-471

Roanoke City
CITY OR COUNTY ☒ General District Court ☐ Circuit Court

TO THE COURT:

I/we, the plaintiff(s) in this proceeding, request that this court issue a writ of eviction against the defendants with regard to the following premises: Extended Stay America Select Suites - Roanoke - Airport
Room Number: 315 2705 Frontage Rd NW
Roanoke, VA 24017

This request is made upon a judgment for possession dated: May 14, 2024

I/we present that, following the entry of the judgment for possession, the landlord has not entered into a new written rental agreement with the tenant

☒ This writ of eviction is requested pursuant to the Virginia Residential Landlord and Tenant Act. The landlord has provided the required notice set forth in Virginia Code § 55.1-1250.

6/17/2024

DATE

☐ PLAINTIFF ☒ PLAINTIFF'S ATTORNEY ☐ PLAINTIFF'S AGENT

Brett C. Herbert, Esq. (VSB No. 86065)

PRINTED NAME OF ☐ AGENT ☒ ATTORNEY

WRIT OF EVICTION

Va. Code §§ 8.01-470, 8.01-472

TO ANY AUTHORIZED OFFICER:

You are hereby commanded in the name of the Commonwealth to cause the Plaintiff(s) to have possession of the following premises from the defendant(s): Extended Stay America Select Suites - Roanoke - Airport
Room Number: 315 2705 Frontage Rd NW
Roanoke, VA 24017

You are further commanded to make a return before me within 30 days of this date as to the day and manner of executing this writ

6/18/24

DATE

[Signature]

CLERK

CLERK

Notice to Defendant (Tenant):

If the landlord has checked the box above that this writ of eviction is requested pursuant to the Virginia Residential Landlord and Tenant Act, and the only reason for the entry of an order of possession was nonpayment of rent, then you, or someone on your behalf, may pay the landlord, the landlord's attorney or the court all amounts claimed on the Summons for Unlawful Detainer, including current rent, damages, late fees, costs of court, any civil recovery, attorney fees and sheriff fees, including the sheriff fees for service of the writ of eviction if payment is made after issuance of the writ, no less than 48 hours before the date and time scheduled by the sheriff for the eviction, in order to avoid the eviction. You may pay by cashier's check, certified check or money order. If you appeal the unlawful detainer case and pay any required bond, writ tax and costs after the sheriff has served the notice of intent to execute the writ of eviction, you must notify the sheriff of your appeal.

FORM DC-469 07/23

I hereby certify that the document to which this authentication is affixed is a true copy of a record in the City of Roanoke General District Court and that I have custody of that record.

CASE NO. GV24002234-00

ESA Management, LLC, as manager of Extended Stay America Select Suites - Roanoke - Airport

PLAINTIFF(S) (LAST NAME, FIRST NAME, MIDDLE INITIAL)

c/o Gordon & Rees, attn: Brett C. Herbert, Esq.

5425 Discovery Park Blvd, Ste. 200

Williamsburg, VA 23188

V.

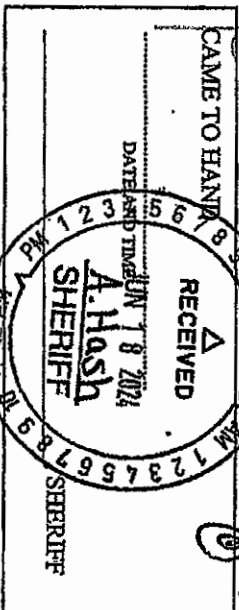
Williams, John

Deputy Clerk
DEFENDANT(S) (LAST NAME, FIRST NAME, MIDDLE INITIAL)

Extended Stay America Select Suites - Roanoke - Airport

Room Number: 315 2705 Frontage Rd NW

Roanoke, VA 24017



EXECUTED by taking into possession the within-named premises and delivering possession of it to the plaintiff(s).

DATE

I understand that I am required, pursuant to Va. Code § 8.01-471, to return this executed writ of eviction to the clerk's office of the court that issued this writ.

SHERIFF

by

DEPUTY SHERIFF

EXHIBIT "A" Pg. 2

24-18-24
6-18-24
6-25-